

REMARKS

Applicant's undersigned attorney thanks the Examiner for her comments. Applicant respectfully requests reconsideration of this patent application, particularly in view of the above Amendment and the following remarks. Currently, Claims 1-16, 18, 19, and 21-28 are pending.

Amendment to the Claims

Claims 1-16, 18, 19, and 21-28 have been examined, with no claims being allowed. Applicant has amended Claims 1, 10, and 11, and canceled Claims 8, 9, 14, and 28.

Claim 1 has been amended to eliminate the Markush group of film polymers and to include the limitations of Claims 8 and 9. Therefore, Applicant respectfully requests cancellation of Claims 8 and 9. Claim 1 has been further amended to include the limitations of the elastomeric strands and the elastomeric film being substantially the same length, and the first and second facing sheets being separate from one another. Support for these amendments is provided throughout the application, such as at page 22, line 20 – page 23, line 9, of the specification and in Figs. 9 and 17.

Claims 10 and 11 have been amended to be consistent with the amendments to Claim 1, and to depend from Claim 1 rather than from Claim 8. Claim 11 has been further amended to clarify the claim language.

To avoid redundancy, Applicant respectfully requests cancellation of Claims 14 and 28.

No new matter has been added by this Amendment. No additional fee is due for this Amendment because the number of independent claims has been reduced and the total number of claims has been reduced.

Claim Rejections - 35 USC §103**A. Bruemmer et al. in view of Sauer**

The rejection of Claims 1-3, 6, 8, 11-16, 18, 21-25, 27, and 28 under 35 U.S.C. §103(a) as being unpatentable over Bruemmer et al. (U.S. Patent No. 5,582,606) in view of Sauer (U.S. Patent No. 6,121,510) is respectfully traversed.

Bruemmer et al. disclose an absorbent article comprising leg cuffs, containment flaps, and other components. Although Bruemmer et al. disclose containment flaps including at least two types of elastomeric strands, the containment flaps lack separate facing sheets bonded to both surfaces of an elastomeric film in combination with at least two types of elastomeric strands positioned between the film and one of the facing sheets.

Sauer also discloses an absorbent article, and also fails to disclose or suggest an elastomeric laminate that includes an elastomeric film with multiple strands of at least two types of elastomeric material secured to at least one surface, and separate facing sheets bonded to both surfaces of the film with the elastomeric strands positioned between the film and one of the facing sheets.

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.

Neither Bruemmer et al. nor Sauer discloses or suggests a laminate, by itself or incorporated into an article, that includes at least two types of elastomeric strands secured to an elastomeric film layer with separate facing sheets bonded to both surfaces of the film with the elastomeric strands positioned between the film and one of the facing sheets. Instead, Bruemmer et al. and Sauer both disclose absorbent articles including containment flaps comprising a layer of material with elastomeric strands attached to it. There is no suggestion to modify either of these references or to combine these references to result in Applicant's claimed elastomeric laminate.

Even if the teachings of Bruemmer et al. and Sauer were combined, the combined teachings would not result in Applicant's claimed elastomeric laminate because neither of the cited references discloses or suggests the makings of a

laminate, by itself or incorporated into an article, that includes at least two types of elastomeric strands secured to an elastomeric film layer with separate facing sheets bonded to both surfaces of the film with the elastomeric strands positioned between the film and one of the facing sheets.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the cited references and not based on Applicant's disclosure. Absent impermissible hindsight, a person skilled in the art would not derive Applicant's claimed elastomeric laminate from any modification of or combination of Bruemmer et al. and Sauer because neither of these references discloses or suggests a multilayer elastomeric laminate having all of the layers of Applicant's invention.

For at least the reasons given above, Applicant respectfully submits that the teachings of Bruemmer et al. in view of Sauer fail to disclose or suggest Applicant's claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

B. Bruemmer et al. in view of Sauer and further in view of Sauer

The rejection of Claims 4, 5, and 7 under 35 U.S.C. §103(a) as being unpatentable over Bruemmer et al. in view of Sauer '510 (U.S. Patent No. 6,121,510) as applied to Claims 1-3, 6, 8, 11-16, 18, 21-25, 27, and 28 above, and further in view of Sauer '300 (U.S. Patent No. 5,527,300), is respectfully traversed.

As explained above, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the teachings of Bruemmer et al. and Sauer '510, and even if these references were combined, the combination would not result in a multilayer elastomeric laminate having all of the layers of Applicant's invention.

Despite the thermoplastic elastomers and thermoset polymers disclosed in Sauer '300, there is still no suggestion or motivation to modify or combine the teachings of Bruemmer et al., Sauer '510, and Sauer '300, and even if these three references were combined, the combination would not result in a multilayer elastomeric laminate having all of the layers of Applicant's invention because none of these references, alone or in combination, discloses or suggests an elastomeric

laminate that includes an elastomeric film with multiple strands of at least two types of elastomeric material secured to at least one surface of the film, and separate facing sheets bonded to both surfaces of the film with the elastomeric strands positioned between the film and one of the facing sheets.

For at least the reasons given above, Applicant respectfully submits that the teachings of Bruemmer et al. in view of Sauer '510 and further in view of Sauer '300 fail to disclose or suggest Applicant's claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

C. Bruemmer et al. in view of Sauer and further in view of Melbye et al.

The rejection of Claim 19 under 35 U.S.C. §103(a) as being unpatentable over Bruemmer et al. in view of Sauer '510 as applied to Claims 1-3, 6, 8, 11-16, 18, 21-25, 27, and 28 above, and further in view of Melbye et al. (U.S. Patent No. 5,681,302), is respectfully traversed.

As explained above, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the teachings of Bruemmer et al. and Sauer '510, and even if these references were combined, the combination would not result in a multilayer elastomeric laminate having all of the layers of Applicant's invention.

Furthermore, neither Bruemmer et al. nor Sauer '510 disclose or suggest a laminate including at least two elastomeric strands having thicknesses that differ from one another.

Melbye et al. disclose elastic sheet-like composites including strands of different diameters attached to a sheet of flexible material, or between two sheets of flexible material. However, Melbye et al. fail to disclose or suggest strands of different compositions, or laminates including a film layer, elastomeric strands, and two separate facing layers with the elastomeric strands positioned between the film and one of the facing layers.

Even if the elastic sheet-like composites of Melbye et al. were combined with the absorbent articles of Bruemmer et al. and/or Sauer '510, the combination would not result in Applicant's claimed elastomeric laminate because the combination does not result in elastic strands of different thicknesses and of different

compositions combined into a single laminate. Furthermore, none of the cited references discloses or suggests a laminate that includes a film layer, elastomeric strands, and two separate facing layers with the elastomeric strands positioned between the film and one of the facing layers.

For at least the reasons given above, Applicant respectfully submits that the teachings of Bruemmer et al. in view of Sauer '510 and further in view of Melbye et al. fail to disclose or suggest Applicant's claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

D. Richardson in view of Bruemmer et al.

The rejection of Claims 1-3, 6, 8-16, 18, 21, and 28 under 35 U.S.C. §103(a) as being unpatentable over Richardson (U.S. Statutory Invention Registration H1420) in view of Bruemmer et al. is respectfully traversed.

Richardson discloses an absorbent article having elastic strands attached to a web, with the strands unattached to the web in certain areas. Obstructing elements are positioned between the web and the strands in the areas where the strands are unattached to the web.

The Examiner cites obstructing elements, such as elastic side panel members 90, as examples of elastomeric film within a laminate (Col. 4, lines 20-33; Col. 13, lines 65-68; and Col. 15, line 54 – Col. 16, line 4). The obstructing elements, such as the elastic side panel members 90, are much shorter in length than the elastic strands. More particularly, the obstructing elements are located in discrete regions of the absorbent article, such as in the waist portions. Thus, Richardson fails to disclose or suggest a laminate in which the elastomeric strands and the elastomeric film are substantially the same length. Additionally, as pointed out by the Examiner, Richardson fails to disclose or suggest at least two of the elastomeric strands having compositions that differ from one another.

Although Bruemmer et al. disclose containment flaps including at least two types of elastomeric strands having different compositions, the containment flaps lack the requisite separate facing sheets bonded to both surfaces of an elastomeric film in combination with the elastomeric strands positioned between the film and one of the facing sheets, and with at least two types of elastomeric strands having

substantially the same length as the film. Thus, Bruemmer et al. fail to overcome the deficiencies of Richardson.

Even if the teachings of Richardson and Bruemmer et al. were combined, the combination would not result in Applicant's claimed invention because neither Richardson nor Bruemmer et al., alone or in combination, disclose or suggest a laminate including elastomeric strands attached to an elastomeric film of substantially the same length and positioned between two separate facing sheets.

For at least the reasons given above, Applicant respectfully submits that the teachings of Richardson in view of Bruemmer et al. fail to disclose or suggest Applicant's claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

E. Beitz et al. in view of Bruemmer et al.

The rejection of Claims 1-3, 7-16, 18, 21, and 26-28 under 35 U.S.C. §103(a) as being unpatentable over Beitz et al. (U.S. Patent No. 6,248,097) in view of Bruemmer et al. is respectfully traversed.

Beitz et al. disclose an absorbent article having containment flaps formed from a fabric layer folded around a barrier layer with elastomeric members positioned between the barrier layer and a portion of the fabric layer. The barrier layer may be composed of a polymer film. As pointed out by the Examiner, Beitz et al. fail to disclose that at least two of the elastomeric strands have compositions that differ from one another. Additionally, Beitz et al. fail to disclose or suggest an elastomeric laminate including two separate facing sheets.

Although Bruemmer et al. disclose containment flaps including at least two types of elastomeric strands having different compositions, the containment flaps lack the requisite separate facing sheets bonded to both surfaces of an elastomeric film in combination with at least two types of elastomeric strands having substantially the same length as the film and positioned between the film and one of the facing sheets. Thus, Bruemmer et al. fail to overcome the deficiencies of Beitz et al.

Even if the teachings of Beitz et al. and Bruemmer et al. were combined, the combination would not result in Applicant's claimed invention because neither Beitz et al. nor Bruemmer et al., alone or in combination, disclose or

suggest a laminate including elastomeric strands attached to an elastomeric film of substantially the same length and positioned between two separate facing sheets.

For at least the reasons given above, Applicant respectfully submits that the teachings of Beitz et al. in view of Bruemmer et al. fail to disclose or suggest Applicant's claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Conclusion

Applicant believes that this case is now in condition for allowance. If the Examiner feels that any issues remain, then Applicant's undersigned attorney would like to discuss the case with the Examiner. The undersigned can be reached at (847) 490-1400.

Respectfully submitted,



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